BEFORE THE BOARD ON THE UNAUTHORIZED PRACTICE OF LAW OF THE SUPREME COURT OF OHIO

In re Yusuf Kashat, **Respondent.**	**Case No. ODC21-046**
TOLEDO BAR ASSOCIATION, 57 S. Broadway St., Suite 325 Toledo, Ohio 43604-7411 **Petitioner.**	**MOTION FOR DEFAULT ORDER**

MOTION FOR DEFAULT ORDER

Pursuant to Gov. Bar R.VII(7)(B), Petitioner, the Toledo Bar Association, hereby moves the Board on the Unauthorized Practice of Law of the Supreme Court of Ohio ("the Board") for a Default Order in the above-captioned matter for the reasons set forth in the following Memorandum.

MEMORANDUM IN SUPPORT

I. Introduction

Respondent Yusuf Kashat is not an attorney in the state of Ohio under Gov. Bar R. I or XII, registered under Gov. Bar R. VI, or certified under Gov. Bar R. II, IX, or XI.

On December 3, 2021, the Toledo Bar Association, filed a complaint with the Board on the Unauthorized Practice of Law against respondent, Yusuf Kashat. The complaint alleged that Kashat provided legal advice and services to Janay Jones in an eviction matter brought by Jones' landlord. On December 6, 2021, the board sent respondent a copy of the complaint, via certified mail, along with notice that he had 20 days to file an answer to the formal complaint. Respondent signed for the complaint on or about December 7, 2021; however, to date, he has not filed an answer to the complaint. Kashat did not respond to the complaint within the twenty days authorized by Rule VII, § 7 of the

Supreme Court Rules for the Government of the Bar of Ohio. Three additional attempts to contact him by telephone, by email, and in person were unsuccessful.

Accordingly, the Association asks the Board to grant a Default Order finding by a preponderance of the evidence that Yusuf Kashat has committed the unauthorized practice of law and ordering him to cease and desist such activities unless and until he (a) secures from the Court, or from the highest Court of some state, territory or other jurisdictional entity of the United States a license to practice law and (b) registers in accordance with the Rules for the Government of the Bar of Ohio.

II. Statement of Facts

III. In September 2021 the defendant, a student in his final year of law school, was studying in the law library when approached by complainant Jones. Jones told Kashat that she was having issues with her landlord, and asked him for his advice. She made clear the reason she was asking for the defendant's assistance was because she could not afford a lawyer. While the Defendant clarified he was only a law student, he nonetheless agreed to help as "[t]he stuff she was talking about was really similar to a discussion we just had in class about tenants' rights, *so I had some ideas and shared them with her*" [emphasis added]. (Kashat interview w/ Huang 3). The Defendant advised her on renegotiating her rent, sending a formal letter of complaint demanding repair, and availed himself to Jones in the future should she have "any more questions" (4). He later called this offer a "dumb mistake" to Investigator Huang (3).

IV. When Jones had more legal questions a month later, she sought out the Defendant's advice once more from what she dubbed his "law office." (4). Stakes were higher this time; in hand the Complainant brought a court summons for eviction. (4). It was an impressive legal situation of a mess that she found herself entrenched. She told the Defendant about how her landlord knew she was scared of her former boyfriend, and asked him to fix the broken front door. The door wasn't fixed, and her fears came to realization ending in physical assault. She suspected

the eviction stemmed from this violent incident, and she didn't know what to do. (4-5).

V. Faced with a factually-complex case with overlays of domestic violence, negligence, property law, and housing security, Defendant tried his hand at Google and took the opportunity to inform the Complainant on rent abatement. He proofed the legal form the Complainant filled out, looked up code, and directed her how to proceed in court (5).

VI. At no point did he inform her about the contingency fee scheduling. Nor did he direct her to the librarian, someone always helpful, professionally-trained in finding resources, and in the immediate vicinity. He is a top student who aspires to work in public service, but never suggests free clinics, housing assistance, domestic violence resources, or tell her straight—she can't afford to not speak to a lawyer.

VII. Defendant laughed and accepted when the Complainant referred to him as her legal professional. He accepted her thank you treats and stayed silent when she expressed that she couldn't afford a real legal professional. The Defendant overflowed with ideas when brainstorming legal remedies. When it came to legal assistance, he only offered up his own, with disclaimer.

VIII. Contradictions: says he's really busy, but gives all this time to her; says he wants to help her, never refers her to anyone else while admitting that his advice is not the best; is a top student, didn't know what he was doing was wrong, yet gave his professor the impression that his advice was perfunctory; claims he feels sorry for the kid, willing to risk kid's apartment for a chance to talk to his mom about rent abatement

I. **Argument**

Ohio. Gov. Bar. R. VII governs the unauthorized practice of law of which the Defendant has been accused. Twenty days have passed without Defendant answering his complaint, triggering Ohio. Gov. Bar. R. VII §12(B), a motion for default. Defendant, not a member of the Ohio State Bar, advised

on court proceedings, form selections, and legal remedies in violation of Ohio. Gov. Bar R. VII(2), the unauthorized practice of law. Defendant provided his legal services before getting licensed to practice, meeting the prima facie case. Gov.Bar R. VII(2)(A).

Unlicensed practice of law ("UPL") has no exception for the well-meaning or mistake because its purpose is to "protect the public against incompetence, divided loyalties, and other attendant evils that are often associated with unskilled representation." *Cleveland Bar Assn. v. CompManagement, Inc.*, 104 Ohio St.3d 168. Mistakes made intending good can result in devastating consequences. Not charging for one's unlicensed legal services does not excuse violation either. *Geauga Cty. Bar Assn. v. Canfield*, 92 Ohio St.3d 15 (2001).

Defendant advised the Complainant to her legal detriment. He didn't give her broad general advice—he listened to the details of her issues, proposed legal paths forward, and assisted in filling out legal forms. In *Cleveland Bar Assn. v. McKissic*, 106 Ohio St.3d 106 (2005), a woman was found in violation of UPL for holding herself out as legal adviser and assisting in the selection and proofing of forms. Defendant always made clear he is not a lawyer, but it's not what he titled himself that is at controversy, it's that he held himself out as someone who provides legal advice. *See: Toledo Bar Assn. v. Abreu,* 147 Ohio St.3d 35 (2016) (self-titled "medicaid specialist" committed UPL).

> Practicing law without a license is judged under the strict liability standard—knowledge of violating the law is not necessary to be enjoined from offering legal services (*E.g. Cleveland Bar Assn. v. McKissic,* 106 Ohio St.3d 106 (2005), defendant believed selecting and completing legal forms for customers was not an unauthorized practice of law found to have engaged in the unauthorized practice of law). While knowledge is not determinative of the violation, it does speak to the necessity of a formal order admonishing the defendant for his illegal actions. A person given a traffic ticket takes the matter of speeding more seriously than one given a warning, and a person given a warning takes

speeding more seriously than a one never pulled over in the first place. The defendant is at the top of his class, tackling both the taxing endeavors of law review and moot court. We expect all third-year law students, regardless of achievement, to understand which acts require a legal license and which do not. At the very least, third-year law students should be able to identify a legal grey area and refrain from action. The defendant willfully practiced law, as evidenced by both knowledge apparent by way of his high academic legal achievement and repeated consultations with the victim Jones.

Even if the defendant truly believed his actions did not violate Gov. Bar R.VII(7)(B) and is most sincere and repentant, and even if Gov. Bar R.VII(7)(B) was not judged under the strict liability standard, the Court should issue a formal finding that the defendant practiced law without a license with an order enjoining from further practice because that indicates that the law school has failed in teaching one of the most foundational lessons of our legal profession—how can a lawyer practice law without the ability to know what is the practice of law? The function of our legal system depends upon the integrity of the various cogs and gears that work in concert within; it's critical for the courts to send a strong message of reproach to any law school whose students go beyond the scope of allowed legal work because each infraction chips away at the legitimacy of our justice system as a whole. A fake doctor who gives bad medical advice causes unfortunate victims to look disfavorably on all the field of medical professionals because the system in place for training and hiring should never have allowed a person who is not a doctor to be able to practice as a doctor in the first place. If the very institutions tasked with educating the practitioners in the legal field fail in keeping their own students from breaking the law during their course of education, then that puts in peril the public's faith in the justice system, upon which the courts' function is entirely dependent. If a law school breaches its educational duty by failing to teach a most basic tenet such as this, and produces students that actively cause

harm to innocent members of the public through reckless and completely unnecessary legal conduct such as this, the Court needs to send a strong and swift rebuke.

II. mitigating factors so a strong admonition without monetary fine is appropriate

There are many mitigating factors: Defendant is at the top of his class in his final year of law school. He's a former first responder, and wishes to go into public service after graduation. He comes from a humble background with plans to give back to his community after he graduates. He says he meant well, and made a mistake. Defendant didn't profit, and only had one "client."

Requested Relief

Those found in violation of the unlicensed practice of law are nearly all enjoined from further legal unlicensed practice (E.g. *Ohio State Bar Assn. v. Wishgard, L.L.C.*, 144 Ohio St.3d 408 (2015), with the more serious violations levying heavy fines (E.g. Ohio Disciplinary Counsel recommended the maximum civil penalty of $20,000 for a woman who acted as an attorney in everything but name under the label "civil rights advocate," *Disciplinary Counsel v. Bukstein*, 139 Ohio St.3d 230, 238 (2014)).

The amount of harm a defendant causes in theory correlates with the severity of the fine. In *Bukstein,* the defendant went as far as drafting pleadings and corresponding with third-parties who believed her to be a licensed attorney, causing at least one third-party to manifest a slew of mental health issues including nightmares and anxiety because he feared he would lose custody of his daughter. *Id.* at 241. Practicing law without a license can result in quite serious consequences for members of the innocent public who cannot be expected to know any better.

However, Defendant's influence was limited, he didn't intend to cause any harm, and is nearly legally licensed. He's a good student who wants to give back. He cooperated

with the investigation initially. An order enjoining him from providing legal services or advice until licensed with no monetary fine is appropriate.

IX. Conclusion

He is in a fair bit of trouble, but not too bad.